

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY ANKARA PRIORITY

AMCONSUL ADANA PRIORITY

INFO AMCONSUL ISTANBUL

AMCONSUL IZMIR

C O N F I D E N T I A L STATE 212114

E.O. 11652: GDS

TAGS:CARR, CASC, TU

SUBJECT: PRISONER TRANSFER TREATY: RATIFICATION AND IM-
PLEMENTATION

REF: A) ADANA 172 B) ADANA 164

1. DEPT APPRECIATES POST'S COMMENTS RE IMPLEMENTATION OF
PRISONER TRANSFER TREATY (REFTELS). DEPT SHARES POST'S
VIEW THAT IT IS ESPECIALLY IMPORTANT TO AVOID UNNECESSARY
DELAYS ONCE TEXT OF TREATY IS AGREED ON. AT SAME TIME, DEPT
IS AWARE OF TENDENCY ON PART OF PRESS, INTERESTED CONGRESS-
MEN, PUBLIC AND PRISONERS THEMSELVES TO OVERLOOK LEGAL RE-
QUIREMENTS INVOLVED IN TREATY-MAKING PROCESS AND TO BECOME
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IMPATIENT WITH WHAT THEY PERCEIVE TO BE "BUREAUCRATIC"
DELAYS. IN CONTACTS WITH CONGRESSIONAL OFFICES, MEDIA AND
PUBLIC, DEPT HAS ENDEAVORED TO EXPLAIN AS REALISTICALLY AS
POSSIBLE LEGAL PROCESS INVOLVED AND TO POINT OUT THAT TIME
WILL BE REQUIRED TO IMPLEMENT TREATY. THERE ARE TOO MANY
UNKNOWN VARIABLES, MANY OF WHICH ARE OUT OF DEPT'S HANDS,
TO PREDICT WITH CONFIDENCE TIME REQUIRED BEFORE TRANSFER OF

PRISONERS BACK TO U.S. CAN TAKE PLACE. NEVERTHELESS, POSTS MAY ASSURE PRISONERS THAT U.S. WILL DO EVERYTHING WITHIN ITS AUTHORITY TO SECURE THEIR TRANSFER AT EARLIEST POSSIBLE DATE. HOWEVER, PRISONERS SHOULD AVOID BECOMING OVERLY

OPTIMISTIC. BARRING UNFORESEEN COMPLICATIONS, TIME PERIOD INVOLVED IS MORE LIKELY TO BE MATTER OF SEVERAL MONTHS, RATHER THAN WEEKS. IN THIS REGARD, IT IS ESSENTIAL TO KEEP IN MIND THAT UNTIL THE TREATY ENTERS INTO FORCE (ON A DATE TO BE AGREED IN THE TEXT), U.S. OFFICIALS HAVE NO RPT NO AUTHORITY TO IMPLEMENT TRANSFER. COMMENT: TREATY CAN NOT RPT NOT ENTER INTO FORCE BEFORE DATE ON WHICH INSTRUMENTS OF RATIFICATION ARE EXCHANGED BY THE TWO GOVERNMENTS. BY MUTUAL AGREEMENT SOME TREATIES DO NOT ENTER INTO FORCE UNTIL A LATER DATE SPECIFIED IN THE TEXT. END COMMENT.

2. FOLLOWING SCENARIO MAY BE USEFUL FOR CONSULAR OFFICERS IN RESPONDING TO INQUIRIES OF AMERICAN PRISONERS:

A. AGREED TEXT MUST BE APPROVED BY U.S. SENATE AND BOTH HOUSES OF TURKISH PARLIAMENT. DEPT WILL PROMPTLY FORWARD AGREED TEXT TO WHITE HOUSE FOR SUBMISSION TO SENATE BY PRESIDENT. DEPT HAS RECEIVED ASSURANCES FROM OFFICES OF INTERESTED SENATORS THAT THEY WILL DO THEIR BEST TO EXPEDITE SENATE CONSIDERATION. HOWEVER, IT SHOULD BE KEPT IN MIND THAT SENATE LEGISLATIVE CALENDAR IS TIGHT. MOREOVER, CONFIDENTIAL

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CONGRESS MAY RECESS FOR ELECTIONS BEGINNING IN MID-OCTOBER. TIMING OF ACTION BY TURKISH PARLIAMENT IS MATTER BETTER JUDGED BY EMBASSY ANKARA. DEPT UNDERSTANDS PARLIAMENT IS CURRENTLY IN RECESS UNTIL APPROXIMATELY NOVEMBER 1.

B. FOLLOWING APPROVAL BY RESPECTIVE LEGISLATIVE BODIES, TWO GOVERNMENTS WILL NEXT HAVE TO EXCHANGE INSTRUMENTS OF RATIFICATION. U.S. DRAFT TEXT PROPOSES THAT TREATY ENTER INTO FORCE ON DATE INSTRUMENTS OF RATIFICATION ARE EXCHANGED. TURKISH DRAFT PROPOSES THAT TREATY COME INTO FORCE 30 DAYS AFTERWARDS. OBVIOUSLY, NEGOTIATORS WILL HAVE TO REACH AGREEMENT ON THIS POINT.

C. UNDER IMPLEMENTING LEGISLATION (PL 95-144), IT WILL THEN BE NECESSARY FOR U.S. MAGISTRATE TO COME TO TURKEY AND CONDUCT FORMAL HEARING WITH EACH AMERICAN PRISONER TO DETERMINE THAT HE/SHE VOLUNTARILY CONSENTS TO THE TRANSFER. THIS IS NORMALLY DONE JUST PRIOR TO THE ACTUAL TRANSFER.

3. RE SPECIFIC QUESTIONS RAISED REFTTEL, POST MAY DRAW ON FOLLOWING:

-- AIR FARE. UNDER IMPLEMENTING LEGISLATION, COSTS OF TRANSPORT BACK TO U.S., AS WELL AS ACCOMPANYING MARSHAL'S TRAVEL, WILL BE PAID BY U.S.

-- COST OF MEALS IN PRISON. IT IS DOUBTFUL U.S. IS AUTHORIZED TO PAY COSTS OF MEALS IN PRISON. THIS MATTER COULD BE

DISCUSSED WITH GOT IN COURSE OF NEGOTIATIONS.

-- DETAILS OF TRANSFER. BASED ON OUR EXPERIENCE IN CASE OF TREATIES WITH MEXICO AND CANADA, NEGOTIATORS WILL BE PREPARED TO DISCUSS DETAILS OF TRANSFER WITH GOT DURING TALKS. WE WILL ALSO BRING ALONG FOR USE OF EMBASSY AND CONSTITUENT POSTS QUESTION/ANSWER BOOKLETS COVERING MANY CONFIDENTIAL

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OF THESE DETAILS, WHICH WERE PREPARED IN CONNECTION WITH EARLIER TREATIES.

-- LINKAGE TO ARMS EMBARGO. CONGRESSMAN SAWYER DID NOT RPT NOT INTRODUCE ON HOUSE FLOOR HIS CONTEMPLATED AMENDMENT LINKING PRISONER TRANSFER TREATY TO LIFTING OF TURKISH ARMS EMBARGO. FOR THE RECORD, HE VOTED IN FAVOR OF ADMINISTRATION'S POSITION. CHRISTOPHER

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